

REMARKS

The Office Action of March 5, 2007 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection and objection are traversed and overcome. Upon entry of this Amendment, claims 1-30 remain in the application. Reconsideration of the claims is respectfully requested.

Claims 1-11, 13-19, 21, 22, 24-27 and 33 have been revised to correct inadvertent minor typographical errors and/or informalities.

Claims 5 and 7-18 stand rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner further states that claims 5 and 7-18 all recite limitations referring to the "size " of the tubes, which the Examiner finds to be indefinite.

Although Applicants do not acquiesce to the Examiner's rejection, in order to expedite prosecution, Applicants have amended Claims 5, 7, 11, 14 and 16 in order to more particularly point out and distinctly claim the subject matter which Applicants regard as their invention. The word "size" has been replaced by "hydraulic diameter" in these amended claims. Support for these recitations may be found throughout the specification as filed, at least at page 13, lines 3-22. Claims 8-10, 12-13, 15 and 17-18 depend ultimately from one of claims 7 and 14. It is submitted that, through this dependency, the basis for rejection of claims 5 and 7-18 has been traversed and overcome. As such, withdrawal of the § 112, second paragraph rejection is respectfully requested.

Claims 1-30 stand rejected under 35 U.S.C. § 103(a) as being obvious over Fang et al. (U.S. Patent No. 6,793,012). The Examiner further states that the Fang et. al. reference has a common assignee with the instant application, and based upon the earlier effective U.S. filing date of Fang et. al., it constitutes prior art only under 35 U.S.C. 102(e).

The Examiner states that the reply filed on April 24, 2006 lacked clarity regarding common ownership, and that the § 1.132 Declaration filed on May 24, 2006 was insufficient to overcome the rejection based upon Fang et al. The Examiner asserts that questions were raised, which may be obviated via an affidavit such as described in MPEP 706.02(l)(2)(C).

Although Applicants do not acquiesce to the Examiner's characterizations of the § 1.132 Declaration and prior reply filed, in order to expedite prosecution, a Declaration pursuant to MPEP 706.02(l)(2)(C) is being filed concurrently herewith as additional objective evidence of common ownership.

In the Declaration, an officer of the assignee states that U.S. Application S.N. 10/608,422 and U.S. Patent No. 6,793,012 were, at the time the invention of U.S. Application S.N. 10/608,422 was made, owned by Valeo, Inc. The officer also offers facts supporting this statement of common ownership.

As such, it is submitted that Fang et. al. is disqualified under 35 U.S.C. 103(c) as prior art in the rejection under 35 U.S.C. 103(a).

For all the reasons stated above, it is submitted that Applicants' invention as defined in claims 1-30 is not anticipated, taught or rendered obvious by the cited reference(s), either alone or in combination, and patentably defines over the art of record.

In summary, claims 1-30 remain in the application. It is submitted that, through this Amendment, Applicants' invention as set forth in these claims is now in a condition suitable for allowance.

Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, the Examiner is cordially invited to contact Applicants' Attorney at the below-listed telephone number.

Respectfully submitted,

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